

THE HONORABLE RONALD B. LEIGHTON

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

JULIANNE PANAGACOS, MALLORY)	NO. 3:10-cv-5018 RBL
HAGEL, STEPHANIE SNYDER,)	PLAINTIFFS' RESPONSE TO
EMILY COX, MOLLY PORTER,)	OLYMPIA DEFENDANTS' 3rd
ANDREA ROBBINS, JULIA GARFIELD))	MOTION TO DISMISS FOR LACK OF
ERAN RHODES, ELI EVANS, CHRIS)	DEFINITE STATEMENT AND MOTION FOR
GRANDE, DAVI RIOS, BRENDAN)	SANCTIONS
DUNN, GLEN CRESPO, and)	
JEFFREY BERRYHILL,)	
)	
Plaintiffs,)	
)	
v.)	
)	
JOHN J. TOWERY; THOMAS R. RUDD))	
CLINT COLVIN; CITY OF OLYMPIA)	
TOR BJORNSTAD, et al.,)	
)	
Defendants.)	
)	

JULIANNE PANAGACOS, MALLORY HAGEL, , STEPHANIE SNYDER, EMILY COX,
Panagacos v. Towery, et al-Plaintiffs' response to Defendants' Third Motion for a more definite statement
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MOLLY PORTER, ANDREA ROBBINS, JULIA GARFIELD, ERAN RHODES, ELI EVANS, CHRIS GRANDE, DAVI RIOS, BRENDAN DUNN, GLEN CRESPO, and JEFFREY BERRYHILL, the ongoing Plaintiffs herein, by and through their attorney, , hereby respond as follows to Defendants' 3d Motion to dismiss for a More Definite Statement as follows:

Plaintiffs are extremely puzzled by the Olympia Defendants' 3^d Motion to dismiss for a More Definite Statement and for Sanctions.

These Defendants moved for an order requiring Plaintiffs to Amend the Complaint to specifically clarify certain specific issues, the scope of the case and difference between that litigation and the Love v. City of Olympia case, that specifically dealt with treatment of female arrestees in the jail from the set of arrests that are part of the basis for this action.

Plaintiffs were ordered to do so, and, complied with that order and clarified facts and causes of action in their First Amended Complaint such that Defendants were able to file an answer to that complaint in specificity and registered no further objections.

Defendants then filed a second motion, and the court ordered Plaintiffs to amend to clarify issues as to any allegations as to what occurred in the jail and as to excessive force during the demonstrations in question.

Plaintiffs responding by specifically clarifying that the incident in the jail was not part of the subject in this action, but was explored at length in a companion case, which is before this court and wherein Counsel for the Olympia Defendants is counsel for the

Defendants in that matter as well. As the court knows, there has been extensive discovery in that matter, including the taking of depositions, and the allegations are spelled out in great detail in the complaint in that matter, so Defendants are on notice of them. Furthermore, if they are not part of this matter, they are not part of this matter, and therefore the court cannot dismiss causes of action in this matter that do not exist. As Plaintiffs stated, those allegations are included for factual purposes only and are not part of this action. Moving to dismiss that which does not exist would seem to be frivolous and serves no legitimate purpose.

Plaintiffs further responded to the court's order by explaining that specific Plaintiffs, and listing them were injured on specified days by less lethal munitions and spray utilized by Defendants, and lists those munitions. The City of Olympia and Counsel for Defendants has already provided a list of those munitions in other matters and in the police reports provided in the companion case. Plaintiffs do not know which munitions specifically injured Plaintiffs as they were fired in fusillades, and Plaintiffs lack that technical knowledge possessed by Defendants who fired and are trained in them.

Plaintiffs contend that they have met the burden required for notice pleading and the rest of the specificity is something appropriate for discovery practice.

CONCLUSION

For all of the above reasons, Defendants' motion to dismiss should be denied. In the event that the court is inclined to grant the motion, which Plaintiffs believe strongly is not warranted by the law or Defendants' motion, the court should order them to completely explain in detail what is deficient and what they are looking for.

There is no basis given, nor any actual justification for sanctions and none should be awarded to Defendants.

Respectfully Submitted: November 1, 2010

/S/

LAWRENCE A. HILDES, WSBA #35035

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PROOF OF SERVICE

Lawrence A. Hildes certifies as follows:

I am over the age of 18 years, and not a party to this action. I am a citizen of the United States.

My business address is P.O. Box 5405, Bellingham, WA 98227

On November 1, 2010, I served the following documents(s) described as follows

PLAINTIFFS' RESPONSE TO DEFENDANTS' THIRD MOTION FOR A MORE DEFINITE STATEMENT

on the following persons(s) in this action at the following addresses:

Donald Law,
Law Lyman Daniel Kamerrer and Bogdanovich
PO Box 11880
Olympia, WA 98508-1880
(360) 754-3480, fax: (360) 357-3511,

Attorney for Defendants

[] (BY FIRST CLASS MAIL) by placing a true copy of the above documents in a sealed envelope with postage fully prepaid in the mail at Bellingham, WA, addressed to the person(s) above at the above address

[X] By electronically serving, by filing an electronic copy with the court in such a way that notice will be sent to counsel for Defendant

[X] (FEDERAL) I declare under penalty of perjury that I am a member of the BAR of this court, and that the above information is true and correct.

Executed on November 1, 2010, at Bellingham, Washington.

_____/S/
Lawrence A. Hildes